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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-572

13 **DENISE ANNETTE DEPOT**
36 Barbara Street
Chicopee, MA 01020
14 **Registered Nurse License No. 734449**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about August 12, 2008, the Board issued Registered Nurse License Number
23 734449 to Denise Annette Depot ("Respondent"). The registered nurse license expired on
24 September 30, 2009, and has not been renewed.

25 **STATUTORY PROVISIONS**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
27 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
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1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
2 Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (1) Incompetence, or gross negligence in carrying out usual certified or
13 licensed nursing functions.

14 6. Code section 2762 states, in pertinent part:

15 In addition to other acts constituting unprofessional conduct within the
16 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
17 person licensed under this chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except as
19 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
20 himself or herself, or furnish or administer to another, any controlled substance as
21 defined in Division 10 (commencing with Section 11000) of the Health and Safety
22 Code or any dangerous drug or dangerous device as defined in Section 4022.

23 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
24 unintelligible entries in any hospital, patient, or other record pertaining to the
25 substances described in subdivision (a) of this section.

26 REGULATORY PROVISION

27 7. California Code of Regulations, title 16, section 1442, states:

28 As used in Section 2761 of the code, 'gross negligence' includes an
extreme departure from the standard of care which, under similar circumstances,
would have ordinarily been exercised by a competent registered nurse. Such an
extreme departure means the repeated failure to provide nursing care as required or
failure to provide care or to exercise ordinary precaution in a single situation which
the nurse knew, or should have known, could have jeopardized the client's health or
life.

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1 **Patient A**

2 a. On October 3, 2008, at 0907 hours, Respondent withdrew 2 mg of Ativan from the
3 Omnicell system for this patient. At 0910 hours Respondent charted the administration of 0.5 mg
4 of Ativan in the patient's medication administration record; however, Respondent failed to chart
5 the administration or wastage of the remaining 1.50 mg of Ativan or otherwise account for the
6 disposition of the remaining Ativan in any hospital record.

7 b. On October 3, 2008, at 0959 hours, Respondent withdrew 2 mg of Ativan from the
8 Omnicell system for this patient. At 1000 hours Respondent charted the administration of 1 mg
9 of Ativan in the patient's medication administration record; however, Respondent failed to chart
10 the administration or wastage of the remaining 1 mg of Ativan or otherwise account for the
11 disposition of the remaining Ativan in any hospital record.

12 c. On October 3, 2008, at 1233 hours, Respondent withdrew 2 mg of Ativan from the
13 Omnicell system for this patient. At 1230 hours Respondent charted the administration of 1 mg
14 of Ativan in the patient's medication administration record; however, Respondent failed to chart
15 the administration or wastage of the remaining 1 mg of Ativan or otherwise account for the
16 disposition of the remaining Ativan in any hospital record.

17 d. On October 3, 2008, at 1516 hours, Respondent withdrew 2 mg of Ativan from the
18 Omnicell system for this patient. At 1530 hours Respondent charted the administration of 1 mg
19 of Ativan in the patient's medication administration record; however, Respondent failed to chart
20 the administration or wastage of the remaining 1 mg of Ativan or otherwise account for the
21 disposition of the remaining Ativan in any hospital record. Further, Respondent failed to chart if
22 the drug was administered intravenously or intramuscularly.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Gross Negligence)**

25 12. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1),
26 on the ground of unprofessional conduct, in that on or about October 3, 2008, while on duty as a
27 registered nurse, at Mercy General Hospital, Sacramento, California, and assigned to Patient A,
28 Respondent committed the following repeated acts constituting gross negligence, as defined in

1 California Code of Regulations, title 16, section 1442. Said acts were an extreme departure from
2 the standard care, which under similar circumstances would have been exercised by a competent
3 registered nurse.

4 a. Respondent repeatedly failed to accurately, thoroughly, and consistently complete
5 hospital and patient records pertaining to the controlled substance Ativan, as more particularly set
6 forth in paragraphs 10 and 11, above.

7 b. Respondent failed to administer the controlled substance Ativan in accordance with
8 the physician's order by administering the medication intramuscularly versus the physician's
9 order, which called for intravenous administration.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct)**

12 13. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a) on
13 the grounds of unprofessional conduct, as more particularly set forth in paragraphs 10 through 12,
14 above.

15 **PRAYER**

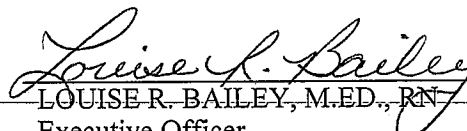
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 734449, issued to Denise
19 Annette Depot;

20 2. Ordering Denise Annette Depot to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3; and,

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 12/23/10


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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